

So Ordered.



Frederick P. Corbit

Frederick P. Corbit
Bankruptcy Judge

Dated: January 9th, 2014

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON

In re:

LLS AMERICA, LLC,

Debtor.

BRUCE P. KRIEGMAN, solely in his
capacity as court-appointed Chapter 11
Trustee for LLS America, LLC,

Plaintiff,

vs.

DAVID ARMSTRONG and SHELLY
ARMSTRONG,

Defendants.

DC Case No. CV-12-4-RMP

Case No. 09-06194-FPC11

Adversary No. 11-80119-FPC11

REPORT AND RECOMMENDATION
RE: ORDER GRANTING MOTION
FOR PARTIAL SUMMARY
JUDGMENT AGAINST
DEFENDANTS DAVID AND
SHELLY ARMSTRONG

The Honorable Frederick P. Corbit, sitting in the United States Bankruptcy Court for the Eastern District of Washington, hereby files this Report and Recommendation regarding the plaintiff's Motion for Partial Summary Judgment (ECF No. 73) filed with the bankruptcy court in this adversary proceeding.

1 This Report and Recommendation is made pursuant to the Honorable Rosanna
2 Malouf Peterson's Order Withdrawing the Reference and Referring Back to
3 Bankruptcy Court for Further Proceedings (ECF No. 15) entered on April 25, 2012 in
4 District Court Case No. CV-12-4-RMP.

5 On July 25, 2013, the plaintiff filed and served a Motion for Partial Summary
6 Judgment (ECF No. 73) directed at fixing amounts the defendants invested in the
7 debtor and the amounts the defendants received from the debtor. The defendants failed
8 to respond to the motion.

9 A hearing was held on the plaintiff's Motion for Partial Summary Judgment on
10 August 15, 2013 and the defendants failed to appear. The court granted the plaintiff's
11 motion and a copy of said order is attached to this Report and Recommendation.

12 **Recommendation**

13 The District Court should grant the plaintiff's Motion for Partial Summary
14 Judgment as the defendants failed to file any response to the motion or appear at the
15 scheduled hearing.

16 ///END OF REPORT AND RECOMMENDATION///
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3 **So Ordered.**



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5 Patricia C. Williams
6 Bankruptcy Judge

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9 **Dated: September 30th, 2013**

10 **UNITED STATES BANKRUPTCY COURT**
11 **EASTERN DISTRICT OF WASHINGTON**

12 In Re:

13 LLS AMERICA, LLC, *et al.*,¹

14 Debtor.

Bankruptcy No. 09-06194-PCW11

15
16 BRUCE P. KRIEGMAN, solely in his
17 capacity as court-appointed Chapter 11
18 Trustee for LLS America LLC,

19 Plaintiff,

20 v.

21 DAVID ARMSTRONG AND SHELLY
22 ARMSTRONG,

23 Defendant.

Adversary No. 11-80119-PCW11

ORDER GRANTING MOTION FOR
PARTIAL SUMMARY JUDGMENT
AGAINST DEFENDANTS DAVID
AND SHELLY ARMSTRONG RE:
AMOUNTS PAID

24 This matter came before the Court on August 15, 2013 for a status
25 conference on Plaintiff's Motion for Summary Judgment as required by LBR
26 7056-1(c). The Defendants did not appear at the status conference and did not file
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¹ Please refer to the Substantive Consolidation Order (Docket No. 771) for a listing of the consolidated debtor-entities.



1 any opposition to the Plaintiff's Motion for Partial Summary Judgment. Having
2 reviewed the documents and pleadings in support of the Motion for Partial
3 Summary Judgment, there being no opposition to the Motion for Partial Summary
4 Judgment, no appearance by the Defendants at the status conference, and being
5 duly advised in the premises,
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8 IT IS HEREBY ORDERED that the Plaintiff's Motion for Partial Summary
9 Judgment is granted.
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11 IT IS FURTHER ORDERED that the Plaintiff is entitled to Judgment
12 against the Defendants for an amount of no less than the Defendants' total net
13 profits in the amount of \$200,442.56, representing the difference between the
14 Defendants' receipt of \$495,442.56 in payments from the Debtor and investment
15 of \$295,000.00 in the Debtor's operations, plus post-judgment interest at the rate
16 of 0.13 percent per annum. The Plaintiff reserves the right to obtain a Judgment
17 for the total amount of payments received by the Defendants, totaling
18 \$495,442.56, subject to a trial on the issue of whether the Defendants invested in
19 good faith.
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24 // End of Order//

25 Presented by:

26 WITHERSPOON • KELLEY

27 /s/ Michael J. Kapaun

28 Michael J. Kapaun, WSBA No. 36864
Attorneys for Plaintiff

ORDER GRANTING MOTION FOR
PARTIAL SUMMARY JUDGMENT - 2



WITHERSPOON • KELLEY

Attorneys & Counselors

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